



National Aeronautics and
Space Administration

Principal Center for Regulatory Risk Analysis and Communication

REGULATORY ALERT

NEPA Guidance

This information was prepared by NASA's Principal Center for Regulatory Risk Analysis and Communication (RRAC). An archive of regulatory alerts, summaries, and other information is posted on the RRAC PC website at <http://www.nasa.gov/offices/rrac/home/>. If you have further questions and/or need assistance, please contact Sharon Scroggins/MSFC (256-544-7932, sharon.scroggins@nasa.gov).

Date [Citation]: 23 February 2010 [[75 FR 8046](#), [75 FR 8045](#), [75 FR 8046](#)]

Regulatory Agency: Council on Environmental Quality

Rulemaking Type: Notice of Availability

Title: Draft Guidance to Modernize and Reinvigorate the National Environmental Policy Act (NEPA)

Summary:

On 23 February 2010, the White House Council on Environmental Quality (CEQ) issued three guidance documents to help federal agencies comply with the National Environmental Policy Act (NEPA). NEPA mandates that federal agencies consider the potential environmental impacts of their proposed actions before implementation. NEPA requires public involvement for actions that may affect the environment. The CEQ draft guidance includes the documents described below.

Draft Guidance on the Consideration of Greenhouse Gases (GHGs)–Comments due 24 May 2010

Federal agencies should analyze the environmental impacts of GHG emissions and climate change when describing the environmental impacts of a proposed action. The draft guidance does not apply to land and resource management actions and does not propose to regulate GHGs. The guidance includes the following:

- Tools for agency reporting
- A threshold of 25,000 metric tons of carbon dioxide equivalent emissions from the proposed action to trigger a quantitative analysis
- Procedure for assessing the effects from climate change that may be relevant to the design of the proposed action

Draft Guidance Clarifying Appropriateness of “Findings of No Significant Impact” (FONSI) and Specifying When There is a Need to Monitor Environmental Mitigation Commitments–Comments due 23 March 2010

NEPA analyses may be completed with a FONSI on the environment, precluding the requirement for a more detailed environmental analysis. The draft guidance states that the environmental impacts of a proposed action may be mitigated to the point when the agency may make a FONSI determination. When the FONSI depends on successful mitigation, however, such mitigation requirements should be made public and be accompanied by monitoring and reporting. The draft guidance also includes monitoring and reporting of mitigation commitments made in NEPA documentation.

Revised Draft Guidance Clarifying Use of Categorical Exclusions (CatEx)–Comments due 24 May 2010

Federal agencies may establish lists of CatExs, broad categories of activities determined not to have a significant impact on the environment, which do not require the agency to conduct further NEPA review. The draft CatEx guidance clarifies the rules for CatEx and ensures that there is a concise public record when agencies apply them.

In addition to the three guidance documents, CEQ has updated its NEPA website, www.nepa.gov, to increase public participation and overall NEPA implementation. Website improvements include the additions of the status of reviews of NEPA guidance and Recovery Act NEPA reporting.

Potential Impacts to NASA:

NASA Centers should be aware of the new guidance and review it to support the incorporation of GHG considerations into future NEPA analyses, making FONSI determinations and monitoring associated mitigation requirements, and properly applying CatExs.

Additional Information: <http://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa>